



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION**

BRETT-ANDREW: HOUSE OF	§	
NELSON,	§	
Petitioner,	§	
vs.	§	CIVIL ACTION 1:21-1532-MGL-SVH
	§	
	§	
KENNETH MURRAY PLOTZ, a man;	§	
DAVID WAITE, a man; SETH RYAN, a man;	§	
DAN HOTSENPILLER, a man; THE	§	
JUDICIARY COURTS FOR THE STATE OF	§	
COLORADO, a coporation; and THE STATE	§	
OF COLORADO, a coporation,	§	
Respondents.	§	

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND DISMISSING PETITIONER’S PETITION WITH PREJUDICE**

Petitioner Brett-Andrew: House of Nelson filed a petition for ex parte writs of prohibition, estoppel, mandamus, and execution against the above-named Respondents. He is representing himself.

The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Petitioner’s petition be dismissed with prejudice and that sanctions be entered against him. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on May 27, 2021, and Petitioner filed what the Court will construe as his objections on May 29, 2021. The Court has carefully reviewed the objections, but holds them to be without merit. It will therefore enter judgment accordingly.

Much of Petitioner's objections concerns the Magistrate Judge's alleged lack of authority to issue a Report in this matter. Petitioner insists that, because his petition is not a pre-trial matter, the Magistrate Judge lacks jurisdiction to file her Report. Petitioner misapprehends the law.

According to 28 U.S.C. § 636(b)(3), "[a] [M]agistrate [J]udge may be assigned such . . . duties as are not inconsistent with the Constitution and laws of the United States." The assignment to the Magistrate Judge's for the issuance of the Report in this matter is "not inconsistent with the Constitution and laws of the United States." *Id.* Therefore, the Court will overrule these objections.

The rest of Petitioner's objections are so lacking in merit as not to require any discussion. Nevertheless, in an abundance of caution, the Court has made a de novo review of the entire record in this case. But, because the Court agrees with the comprehensive and well-reasoned Report, it need not repeat here what the Magistrate Judge has already written there. Suffice it to say Petitioner's filing is frivolous. Therefore, the Court will overrule his objections.

Concerning the Magistrate Judge's suggestion concerning sanctions: going forward, in any other cases Petitioner might file with this Court, it will entertain any specific recommendation regarding sanctions the Magistrate Judge decides to make to the Court.

Given Petitioner's history, as detailed in the Report, if Petitioner wishes to make any other factual arguments to this Court in this case or any others, those submissions should be signed and certified under penalty of perjury that the factual statements are true.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Petitioner's objections, adopts the Report to the extent it does not contradict this Order, and incorporates it herein. Therefore, it is the judgment of the Court Petitioner's petition is **DISMISSED WITH PREJUDICE**; and Petitioner's motion to strike is **DEEMED AS MOOT**.

IT IS SO ORDERED.

Signed this 25th day of January, 2022, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.